



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<i>In re</i> the application of)	
)	Technology Division: 2625
Yoshihiro NAKAMI et al.)	
)	Examiner: S. Brinich
Application No. 10/051,805)	
)	Atty. Docket No. MIPFP002
Filed: January 15, 2002)	
)	Date: January 5, 2007
For: OUTPUT IMAGE ADJUSTMENT)	
METHOD, APPARATUS, AND)	Confirmation No. 6021
COMPUTER PROGRAM PRODUCT)	
<u>FOR GRAPHICS FILES</u>)	

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 5, 2007.

Signed: _____

Peter B. Martine

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants request review of the final rejection set forth in the Final Office Action dated September 5, 2006. This request is being filed concurrently with a Notice of Appeal.

Claims 1-50 are pending in the subject application and all of the pending claims have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Nakatsuka* (U.S. Patent No. US 6,229,625 B1) in view of *Shiota et al.* (European Patent Publication No. 0838939). As will be explained in more detail in the Argument section set forth below, the obviousness rejection is improper because the Examiner has effectively omitted several features required to establish a *prima facie* case of obviousness by either misinterpreting the claimed subject matter or ignoring aspects of the claimed subject matter.

ARGUMENT

Argument No. 1: Independent Claims 1, 9, 24, and 50

The *Nakatsuka* reference discloses a technique for obtaining an image processing parameter. In particular, *Nakatsuka* uses an image processing device to analyze target image data and applies fuzzy logic to image characteristic information d1, a subject keyword d2, and a finishing keyword d3, each of which is obtained by analysis, so as to obtain the image processing parameter. In operation, once the user selects the subject keyword d2 and finishing keyword d3 on the image processing device, the image characteristic information d1 is added to the selected subject keyword d2 and the finishing keyword d3, and fuzzy logic is applied thereto, so as to obtain the image processing parameter.

Independent claims 1, 9, 24, and 50, as presented in the Amendment filed on June 21, 2006 (and received in the PTO on June 26, 2006) (“the Amendment”), recite at least the following three (3) features that are neither shown nor suggested in the *Nakatsuka* reference:

1. the image data and the image processing control information are transmitted from the image generating device;
2. the image processing control information is related to target image data at the image data generating device; and
3. the image processing control information defines the image quality correction condition in the image processing device.

It is common to define an image quality correction condition in an image processing device. The claimed configuration, on the other hand, allows *the image data generating device* to relate the image processing control information to target image data, which is to define the image quality correction condition in the image processing device. Thus, the claimed configuration may be characterized by the image data generating device defining the image quality correction condition in the image processing device.

The Examiner acknowledges that the *Nakatsuka* reference “does not disclose expressly the storage of image data and image quality property information in a single file in

association with one another.” Final Office Action at page 3. The Examiner asserts that this deficiency is remedied by the *Shiota et al.* reference, which “discloses (column 2, lines 50-56) the storage of image data and image quality property information in one file (and thereby inherently associating the two with one another).” Final Office Action at page 3. Applicants respectfully disagree with the Examiner’s characterization of the *Shiota et al.* reference and will present more detailed comments in this regard in the Appeal Brief. For purposes of this paper, however, it is sufficient to note that the *Shiota et al.* reference does not cure the above-mentioned deficiencies of the *Nakatsuka* reference relative to the claimed subject matter.

Thus, for at least the foregoing reasons, the combination of *Nakatsuka* in view of *Shiota et al.* would not have resulted in an image processing device, method, or system having the above-listed constituent features. Accordingly, the combination of *Nakatsuka* in view of *Shiota et al.* does not raise a *prima facie* case of obviousness against independent claims 1, 9, 24, and 50.

Argument No. 2: Independent Claims 16 and 20

Independent claims 16 and 20, as presented in the Amendment, include the constituent features of a standard image quality parameter value and an analytic image quality parameter value, i.e., an image quality parameter value obtained by analyzing the image data. Neither the *Nakatsuka* reference nor the *Shiota et al.* reference discloses or suggests these features (the deficiencies of the *Nakatsuka* reference relative to the subject matter defined in claims 16 and 20 is discussed in the Amendment at pages 18-19). As such, the Examiner has either misinterpreted the configuration defined in claims 16 and 20 or has improperly ignored aspects of the claimed subject matter. The subject matter defined in claims 16 and 20 solves a particular problem that arises only when the subject includes the above-mentioned features, and this problem is not addressed in either the *Nakatsuka* reference or the *Shiota et al.*

reference. Accordingly, the combination of *Nakatsuka* in view of *Shiota et al.* does not raise a *prima facie* case of obviousness against independent claims 16 and 20.

Argument No. 3: Independent Claims 27, 37, 38, and 49

Independent claims 27, 37, 38, and 49, as presented in the Amendment, define an image data generating device (claims 27 and 37), a method for generating image data (claim 38), and a computer-executable program for generating image data in which the image data generated in the image generating device is associated with image quality adjustment data, and is then stored in a memory (claim 49). Each of these claims includes the feature that the image data generating device defines the image quality correction condition in the image processing device. As argued above with regard to claim 1, the combination of *Nakatsuka* in view of *Shiota et al.* would not have suggested to one having ordinary skill in the art an image data *generating* device that defines the image quality correction condition in the image *processing* device. Accordingly, the combination of *Nakatsuka* in view of *Shiota et al.* does not raise a *prima facie* case of obviousness against independent claims 27, 37, 38, and 49.

Conclusion

For the reasons set forth above, the combination of *Nakatsuka* in view of *Shiota et al.* does not disclose or suggest each and every feature of the subject matter defined in claims 1-50. It is axiomatic that the prior art must disclose or suggest each and every feature of the claimed subject matter to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a). Accordingly, the combination of *Nakatsuka* in view of *Shiota et al.* does not raise a *prima facie* case of obviousness against the claimed subject matter.

In view of the foregoing, Applicants respectfully submit that claims 1-50 are in condition for allowance. Accordingly, a notice of allowance is respectfully requested. In the event a telephone conversation would expedite the prosecution of this application,

U.S. Application No. 10/051,805
Pre-Appeal Brief Request for Review

Applicants' undersigned representative may be reached at (408) 749-6902. If any fees are due in connection with the filing of this paper, then the Commissioner is authorized to charge such fees to Deposit Account No. 50-0805 (Order No. MIPFP002).

Respectfully submitted,
MARTINE PENILLA & GENCARELLA, LLP



Peter B. Martine
Registration No. 32,043

710 Lakeway Drive, Suite 200
Sunnyvale, California 94085
Customer No. 25920